

House File 582

H-1194

1 Amend House File 582 as follows:

2 1. By striking everything after the enacting clause
3 and inserting:

4 <Section 1. Section 602.1614, subsection 3, Code
5 2017, is amended by adding the following new paragraph:

6 NEW PARAGRAPH. *Om.* Establishing processes and
7 procedures for an application and for the issuance of a
8 search warrant under chapter 808 by electronic means.

9 Sec. 2. Section 808.1, subsection 2, Code 2017, is
10 amended to read as follows:

11 2. "*Affidavit*" means a written declaration
12 or statement of fact made under oath, or legally
13 sufficient affirmation, submitted in person or by
14 electronic submission before any person authorized to
15 administer oaths within or without the state.

16 Sec. 3. Section 808.1, Code 2017, is amended by
17 adding the following new subsections:

18 NEW SUBSECTION. 3. "*Electronic*" or "*electronically*"
19 means relating to technology having electrical,
20 digital, magnetic, telephonic, wireless, optical,
21 electromagnetic, or similar capabilities. For
22 governmental agencies, this may include alternate
23 software to exchange electronic records with the
24 court's electronic document management system.

25 NEW SUBSECTION. 4. "*Electronic submission*" means
26 the process by which a person may electronically submit
27 an application for a search warrant and any supporting
28 documents to the court for review or other court
29 action.

30 Sec. 4. Section 808.3, Code 2017, is amended to
31 read as follows:

32 **808.3 Application for search warrant.**

33 1. a. A person may make application for the
34 issuance of a search warrant by submitting before a
35 magistrate a written application, supported by the

1 person's oath or affirmation, which includes facts,
2 information, and circumstances tending to establish
3 sufficient grounds for granting the application, and
4 probable cause for believing that the grounds exist.
5 The application shall describe the person, place, or
6 thing to be searched and the property to be seized
7 with sufficient specificity to enable an independent
8 reasonable person with reasonable effort to ascertain
9 and identify the person, place, or thing.

10 b. The search warrant application and any
11 supporting documents may be submitted to the magistrate
12 in person or by electronic submission. If a search
13 warrant is submitted by electronic submission, the
14 magistrate may use electronic means to contact the
15 person submitting the application and supporting
16 documents to confirm the identity of the person, and
17 may administer the person's oath or affirmation and
18 accept the person's sworn testimony by electronic
19 means, subject to the processes and procedures
20 established by the judicial branch.

21 2. If the magistrate issues the search warrant, the
22 magistrate shall endorse on the application the name
23 and address of all persons upon whose sworn testimony
24 the magistrate relied to issue the warrant together
25 with the abstract of each witness' testimony, or
26 the witness' affidavit. However, if the grounds for
27 issuance are supplied by an informant, the magistrate
28 shall identify only the peace officer to whom the
29 information was given. The application or sworn
30 testimony supplied in support of the application must
31 establish the credibility of the informant or the
32 credibility of the information given by the informant.
33 The magistrate may in the magistrate's discretion
34 require that a witness upon whom the applicant relies
35 for information appear personally and be examined

1 concerning the information.

2 Sec. 5. Section 808.4, Code 2017, is amended to
3 read as follows:

4 **808.4 Issuance.**

5 Upon a finding of probable cause for grounds
6 to issue a search warrant, the magistrate shall
7 issue a warrant, signed by the magistrate with the
8 magistrate's name of office, directed to any peace
9 officer, commanding that peace officer forthwith
10 to search the named person, place, or thing within
11 the state for the property specified, and to ~~bring~~
12 ~~any property seized before~~ file with the magistrate
13 or clerk of the district court, a written inventory
14 itemizing all seized property. The warrant may be
15 issued electronically, subject to the processes and
16 procedures established by the judicial branch, and if
17 so, the peace officer shall cause a printed copy of the
18 warrant to be made for service of process.

19 Sec. 6. Section 808.4A, subsection 2, Code 2017, is
20 amended to read as follows:

21 2. a. The application shall describe the person,
22 place, or thing to be tracked or monitored by a
23 global positioning device, or the removal of such a
24 device from a person, place, or thing with sufficient
25 specificity to enable an independent reasonable person
26 with reasonable effort to ascertain and identify the
27 person, place, or thing. If the magistrate issues the
28 search warrant, the magistrate shall endorse on the
29 application the name and address of all persons upon
30 whose sworn testimony the magistrate relied to issue
31 the warrant together with the abstract of each witness'
32 testimony, or the witness' affidavit. However, if the
33 grounds for issuance are supplied by an informant, the
34 magistrate shall identify only the peace officer to
35 whom the information was given. The application or

1 sworn testimony supplied in support of the application
2 must establish the credibility of the informant or the
3 credibility of the information given by the informant.
4 The magistrate may in the magistrate's discretion
5 require that a witness upon whom the applicant relies
6 for the information appear personally and be examined
7 concerning the information.

8 b. The search warrant application and any
9 supporting documents may be submitted to the magistrate
10 in person or by electronic submission. If a search
11 warrant is submitted by electronic submission, the
12 magistrate may use electronic means to contact the
13 person submitting the application and supporting
14 documents to confirm the identity of the person, and
15 may administer the person's oath or affirmation and
16 accept the person's sworn testimony by electronic
17 means, subject to the processes and procedures
18 established by the judicial branch.

19 Sec. 7. Section 808.8, subsection 2, Code 2017, is
20 amended to read as follows:

21 2. The officer must file, with the officer's
22 return, a complete inventory of the property taken with
23 the magistrate or clerk of the district court, and
24 state under oath that it is accurate to the best of
25 the officer's knowledge. The magistrate or clerk of
26 the district court must, if requested, deliver a copy
27 of the inventory of seized property to the person from
28 whose possession it was taken and to the applicant for
29 the warrant.

30 Sec. 8. Section 808.11, Code 2017, is amended to
31 read as follows:

32 **808.11 Transmission of ~~papers~~ documents to district**
33 **court clerk.**

34 The magistrate who has issued a search warrant shall
35 attach to the warrant a copy of the return, inventory,

1 if the inventory has not already been filed with the
2 clerk of the district court, and all other ~~papers~~
3 documents in connection therewith and shall file them
4 with the clerk of the district court for the county in
5 which the property was seized.

6 Sec. 9. CONTINGENT EFFECTIVE DATE. This Act takes
7 effect on the effective date of rules prescribed by the
8 supreme court and submitted to the legislative council
9 pursuant to section 602.4202, that establish processes
10 and procedures for the application and issuance of a
11 search warrant by electronic means to implement this
12 Act.>

13 2. Title page, by striking lines 1 through 5
14 and inserting <An Act relating to search warrants,
15 by allowing an application for and the issuance of
16 a search warrant by electronic means, and allowing
17 for the written inventory of any property seized to
18 be filed with the clerk of the district court, and
19 including effective date provisions.>

HOLT of Crawford